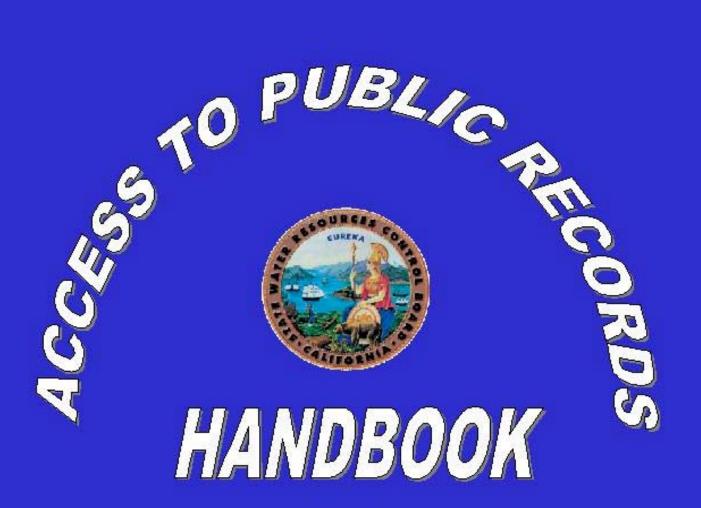
# CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD SAN DIEGO REGION



**July 1, 2003** 

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### **ACCESS TO PUBLIC RECORDS**

## 1. <u>INTRODUCTION</u>

The California Regional Water Quality Control Board, San Diego Region, (Regional Board) maintains public records containing extensive information on water quality, waste discharges, beneficial uses of water, and water quality regulatory program activities in the San Diego Region dating from the early 1950s. The public records, created and received by the Regional Board in the course of administering California's water quality protection programs in the San Diego Region, are a vital resource. They serve as the memory of the Regional Board organization, a record of past events, and the basis for future actions. Access to these public records is a right of all Californians.

This document provides procedures and fee schedules for members of the public to inspect and obtain copies of public records maintained by the Regional Board. These procedures are designed to provide broad and easy access to public records by any member of the public while protecting the integrity of the public records. The procedures for requesting access to the Regional Board's public records are neither complicated nor time consuming and no special expertise is required. Following these procedures will make it more likely that you will obtain the information you are seeking in the shortest amount of time.

This document is posted in the Public Records Review Area of the Regional Board office and on the Regional Board's website at www.swrcb.ca.gov/rwqcb9. A copy of this document will be provided free of charge upon request. The procedures and fee schedules described in this document supercede previously issued procedures and fee schedules.

## 2. AUTHORITY

Authority to establish administrative requirements regarding access to public records is provided by civil code section 1798.20, government code section 6253, and the State Administrative Manual (SAM).

## 3. **DEFINITIONS**

**Access:** Permission to use and reproduce public records. May be limited or qualified by the Regional Board, the legal custodian of the public records, as provided in this document and the California Public Records Act.

**Public:** Includes private citizens, citizen groups, businesses, and public agencies.

**Public Records:** Any identifiable record (not otherwise exempted), regardless of the medium or form of recording, that relates to public business and is prepared, owned, used, or retained by the Regional Board.

**Records Officer:** Regional Board staff person familiar with all types of records maintained by the organization and with the procedures of this document; responds to requests for public records and assists the requester whenever necessary; serves as a resource for organization staff regarding the release of records.

**Requester:** Member of the public requesting access to inspect or copy public records.

### 4. CALIFORNIA PUBLIC RECORDS ACT

The California Public Records Act, Government Code Section 6250 et seq., declares that access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in the State. The Act requires state agencies, including the Regional Board to make public records available to any person for inspection and copying during office hours upon request, except as provided in the Act.

The Regional Board maintains an active, continuing program for the economical and efficient management of the records and information collected by the Regional Board. The Regional Board strives to ensure that all public records maintained by the Board contain accurate, complete, relevant, and timely information. Pursuant to the Act, the Regional Board's policy is to provide broad and easy access to information and public records by any member of the public and to make the fullest possible disclosure of records and information without unjustifiable expense or unnecessary delay to any requester.

#### 5. PUBLIC RECORDS YOU CAN INSPECT AND COPY

All existing Regional Board public records are available to the public except to the extent such records (or portions thereof) are protected from disclosure by various exemptions under the California Public Records Act. Public records include any identifiable record (not otherwise exempted), regardless of the medium or form of recording, that relates to public business and is prepared, owned, used, or retained by the Regional Board.

# **6.** RECORDS OR INFORMATION EXEMPT FROM PUBLIC REVIEW

In general, all Regional Board files, papers, electronic documents, and reports are public records subject to review and disclosure. However, there are certain exceptions in the law where some Regional Board records are not necessarily considered public records and may be exempt from disclosure. The most common exemptions are:

A. Personal, medical, or similar files on current or former State and Regional Water Board employees and Board members, including grievances and complaints;

- B. Preliminary drafts, notes, or interagency and intra-agency memoranda that are not retained in the ordinary course of business. (Note: These "working papers" are not kept in the official file and are discarded when the project is complete.)
- C. Certain privileged information between the Regional Board and its attorneys regarding litigation to which the State or Regional Water Board is a party;
- D. Information pertaining to an ongoing investigation for law enforcement or licensing purposes;
- E. Confidential correspondence with the Governor or employees in the Governor's office; and
- F. Trade secrets or confidential information.

If the above information may be reasonably segregated and deleted from any records, the Regional Board will make the remainder of that record available to you for inspection or copying, if it is not otherwise available.

This is not a complete listing of public records or information exempt from public review. Other records may be exempt from disclosure but must be evaluated on a case-by-case basis. A record may be withheld from disclosure, even without specific statutory authorization, if it is clearly demonstrated that "the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record." (Government Code Section 6255.)

## 7. INTERNET ACCESS TO INFORMATION

Before making a request to view public records in the Regional Board office you may wish to determine if the information is already available on the State Water Resources Control Boards website at <a href="https://www.swrcb.ca.gov/rwqcb9">www.swrcb.ca.gov/rwqcb9</a>. New and updated information is constantly being added to these sites. For example, every final enforcement order issued by the Regional Board after April 1, 2001 is displayed on the Regional Board's website for a period of not less than one year. (Government Code Section 6253.8.) We hope that by providing the public with Internet access to more and more of our records and services, we will better meet your records and information research needs.

# 8. SUBMITTING YOUR REQUEST

Requests to inspect or copy records may be oral or written. You are encouraged to make requests to inspect or obtain copies of Regional Board public records in writing. You are also encouraged to make appointments to inspect or copy public records, unless the request involves records that are maintained by the Regional Board for the purpose of immediate public inspection. Written requests may be made by completing the *Public Records Access Request Form* in accordance with the instructions (see Attachments 1 and 2) and submitting it to the Regional Board Records Management Officer via e-mail, fax or regular mail at the address described below:

Regional Board Records Management Officer Attention: Sylvia Wellnitz California Regional Water Quality Control Board, San Diego Region 9174 Sky Park Court, Suite 100 San Diego, California 92123-4340

Phone (858) 637-5593 Fax (858) 571-6972

E-mail: records@rb9.swrcb.ca.gov

Written requests should include the name and address of the requester. The request must reasonably describe or identify the public record (s) being sought (Government Code Section 6257) so that the Regional Board can identify, locate, and retrieve the records. This means that a request must be specific enough to permit an employee of the Regional Board to locate the record in a reasonable period of time. The request must be for an existing public record(s)s, not a future record(s). The California Public Records Act does not require state agencies to do research, to analyze data, to answer written questions on a record, to collect information it does not have, or to create records in order to respond to a request.

## 9. RECORDS ORGANIZATION

The Regional Board maintains thousands of public records. In making your request you should be as specific as possible with regard to names, dates, places, events, subjects, etc. If a particular document is required, it should be identified precisely, preferably by date and title. If you cannot identify a specific record, clearly explain your needs. You do not have to give a requested record's name or title, but the more specific you are about the record or types of records that you want, the more likely it will be that the Regional Board will be able to locate the record(s) or information you are seeking. The Regional Board will assist you in identifying public records or groups of public records that may contain the specific documents you are seeking.

A description of the Regional Board public records index and organization is contained in Attachment 3. You may contact the Regional Board Records Management Officer described in Sections 6 or 14 of this document for assistance in using this index to locate public records.

A requester is not required to identify the specific system of records that contains the information being sought. Using information provided by the requester, the Regional Board will determine which system of records has the requested information.

## **10. EXCEPTIONS AND TIMEFRAMES**

The Regional Board will respond within ten days to requests for access to records. If the tenth day falls on a weekend or holiday, the following workday is the last day on which the determination may be made. The Regional Board will contact you within 10 days after receiving your verbal request, letter or e-mail. If the Regional Board cannot

provide a full response within that time, you will be notified that your request was received and how long we expect it will take the board to provide a full reply.

If the records can be identified you will be notified and the Regional Board will schedule an appointment with you to inspect the records. If the records are not easily identified, you will be notified within those ten days that the request cannot be processed and will be asked to more clearly identify the requested information or records. The Regional Board may refuse to disclose any records that are exempt from disclosure under the Public Records Act. (See Government Code Section 6254). If the request will be denied because the record is exempt from disclosure, the denial will occur within ten days and you will be notified immediately of the reasons for the denial

# 11. PHYSICAL INSPECTION OF RECORDS

Physical inspection of the records is permitted within the Regional Board office in the area designated for public record review at the following location and times:

## Location

Public Records Review Area California Regional Water Quality Control Board San Diego Region 9174 Sky Park Court, Suite 100 San Diego, California 92123-4340.

### **Times**

Records may be reviewed from Monday through Friday between the hours of 8:00 am to 5:00 pm. Although public record researchers are welcome until closing time, no records will be pulled after 3:00 P.M. Space is limited and appointments are recommended; priority will be given to those with appointments.

#### **In-Person Requests**

In-person requests to inspect public records will be accommodated at the time the request is made whenever possible as long as office operations are not disrupted. The operational functions of the Regional Board will not be suspended to permit inspection of records during periods when the records are reasonably required by Regional Board staff in the performance of their duties. If the in-person request cannot be accommodated, the requester will be given a date and time to return.

## **Appointments**

Persons interested in obtaining an appointment to review Regional Board public records are encouraged to complete and submit the *Public Records Access Request Form* contained in Attachment 1 to the Records Management Officer as described in Section 6. **Submitting Your Request.** For general information on requesting public records please contact the Records Management Officer as described in Sections 6 or 14 or the Public Records Access portion of the Regional Board's website at <a href="https://www.swrcb.ca.gov/rwqcb9">www.swrcb.ca.gov/rwqcb9</a>.

## **Public Records Review Protocols**

Upon your arrival at the Regional Board office to review public records, you will be required to obtain a public records researcher identification badge. You will be requested to provide your name, address, telephone number, and a brief description of the proposed records research topic. You will be requested to show identification that includes a photograph, such as a driver's license, passport, or school or business identification card to obtain the identification badge. You will also be requested to sign the *Public Records Access Procedures Notification Form* contained in Attachment 4. These rules provide in part that persons reviewing Regional Board records shall not destroy, mutilate, deface, alter, or remove any such records from the Regional Board office.

In order to ensure the security of the Regional Board office and personnel, and to prevent the loss or destruction of records, the Regional Board will not allow persons access to public records who refuse to provide identification information or sign the *Public Records Access Procedures Notification Form*. Backpacks, bags or briefcases are not permitted in the public records review area. You will be requested to leave any backpacks, bags or briefcases outside in your vehicle or check them with the Regional Board receptionist. The Regional Board reserves the right to have Board staff present during the inspection of records in order to prevent the loss or destruction of records.

The most recent volume of the requested public record files will be provided for review. If access to previous volumes covering earlier time periods is needed please ask or make a note in the blanks provided on the *Public Records Access Request Form* contained in Attachment 1. Upon either the completion of the public record review or at any time when requested to do so by Regional Board staff, the person conducting the review shall relinquish physical possession of the public records.

#### Removal of Public Records

Official public records or portions of public records may not be removed from the Regional Board office unless they are in the possession of an authorized employee or vendor under contract to the Board, or pursuant to a court order.

## 12. PHOTOCOPYING OF RECORDS

To protect the integrity of public records, Regional Board staff or a bonded copy service approved by the Regional Board must do all photocopying. You will be provided with paper clips and post- it notes to mark pages of a public record for copying. Public records may not be taken apart by persons other than Regional Board staff or an approved bonded copy service.

## Photocopying By Regional Board

Government Code Section 6257 provides for the collection of fees for copies of public records to cover the direct costs of duplication. As a public service and to avoid the inefficiency of collecting small fee amounts, the Regional Board will forgo fee collection for duplication of **10** pages or fewer of paper-to-paper photocopies (up

to and including 11 in. by 17 in.) If the number of copies needed is ten (10) or fewer, the Regional Board will make every effort to make these copies while you wait. Administrative staff may not be available to make the copies at the time you request them due to other work priorities. In that event staff will take your name and address and the documents will be mailed to you within ten (10) business days of your request.

If eleven (11) or more copies are requested, staff will take your name and address and the copies will be made at the Regional Board office at your expense. The Regional Board may, at its discretion, request a bonded copying service to make the requested copies at your expense. The Regional Board will endeavor to have the copies made within ten (10) business days of your request. You will be mailed or faxed an invoice for all applicable charges. The invoice must be paid before the copies are mailed out or before the copies can be picked up.

Current fees and services pertaining to record replication for various media are itemized in this document under Section 13. **Fees For Providing Services**.

## Photocopying by Professional Bonded Copiers

You may also make arrangements to have copies made in the Regional Board office by an approved bonded copying service at your own expense. The Records Management Officer must approve the bonded copying service. Please have an approved bonded copying service contact the Regional Board to schedule an appointment as described in Section 6, **Submitting Your Request**.

A bonded copying service seeking approval status must file with the Regional Board office, a copy of the bond document and a signed *Public Records Access Procedures Notification Form* contained in Attachment 4. Infractions of the rules stated above or in the *Public Records Access Procedures Notification Form* may result in restrictions on access to public records.

## 13. ELECTRONIC RECORDS

Certain records used for official business at the Regional Board are classified and maintained as electronic records. The term "electronic record" is defined in the Uniform Electronic Transaction Act (UETA) as "a record created, generated, sent, communicated, received, or stored by electronic means." Electronic records include Regional Board informational or data files that are created and stored in digitized form through the use of computers and applications software. Electronic records are stored on various magnetic and optical storage devices and are products of computers and computer software.

The fact that public records may be stored in a computer does not affect their status as public records. When public records are maintained in a computer as electronic records, the Regional Board will, in response to a request, make the information available in any electronic format in which it holds the information. The Regional Board will also make electronic records available in paper form if requested. The

process of retrieving the information may result in the creation of a new document when the data is printed out on paper or saved on disk. Since this may be the only way computerized data can be disclosed, the Regional Board will provide the data even if it means a new document must be created.

The Regional Board is not required to reconstruct a public record in an electronic format if the record is no longer available in an electronic format. The Regional Board is also not required to release electronic records in the electronic form in which it is held if its release would jeopardize or compromise the security or integrity of the original record or of any proprietary software in which it is maintained. (Government Code Section 6253.9)

Government Code Section 6253.9 provides for the collection of fees for copies of electronic public records to cover the direct costs of duplication including the cost to construct a record, and the cost of programming and computer services necessary to produce a copy of the record.

Current fees and services pertaining to record replication for various media are itemized in this document under Section 13. **Fees For Providing Services**.

## 14. DISTRIBUTION USING FAX MACHINES OR E-MAIL

Transmitting public record information over a facsimile machine or via e-mail is subject to the same controls as mail or in-person requests. Current fees and services pertaining to record replication for electronic records are itemized in this document in **Section 13. Fees For Providing Services.** 

## 15. FEES FOR PROVIDING SERVICES

Effective July 1, 2003, fees for services pertaining to providing copies of pubic records are as follows:

SERVICE	FEE
Regional Board location of public record(s) for	This service is provided free of charge.
access by requester.	
Paper-to-paper photocopies (up to and including 11	\$0.25/page or \$20.00 transport fee plus applicable
in. by 17 in.)	costs of duplication by outside vendor.
Paper to digital PDF file copy.	\$20.00 per hour, \$2.00 for cd or standard disk copy
	of PDF file, no charge for e-mail delivery of PDF
	file.
Microfiche image to paper copies.	\$0.50/image or \$20.00 transport fee plus applicable
	costs of duplication by outside vendor.
Microfiche duplicates	\$20.00 transport fee plus applicable costs of
	duplication by outside vendor.
Audio recording duplicate.	\$20.00 transport fee plus applicable costs of
	duplication by outside vendor.
Video recordings	\$20.00 transport fee plus applicable costs of
	duplication by outside vendor.

SERVICE	FEE
Photographic reproductions in Regional Board	\$12.00/image preparation fee (up to and including
office.	8.5 in. by 11 in.).
Photographic reproductions by outside vendor.	\$20.00 transport fee plus applicable costs of
	duplication by outside vendor.
Oversize Documents (e.g. maps, drawings, etc.)	\$20.00 transport fee plus applicable costs of
	duplication by outside vendor.
Copying of electronic record reports for which hard	\$0.25/page or \$20.00 transport fee plus applicable
copy is already available	costs of duplication by outside vendor.
Printout of computerized preformatted standard	\$10.00 setup fee plus \$0.25 per page of paper
reports (reports already designed and ready to run)	output.
Printout involving special work (data searches,	\$50.00 per hour with a minimum charge of \$50.00
custom query reports, initial runs of available report	plus \$0.25 per page of paper output or \$2.00 for cd
programs, etc.)	or standard disk copy.
Regional Board certification of copies of records for	This service is provided free of charge.
legal use.	

The Regional Board accepts checks and money orders. Credit cards are not accepted. No charges will be applied to the time spent in locating the requested public record file volume(s). No charge will be made when the requester provides his or her own copy service. The Regional Board will provide copies of the records upon payment of the fees covering costs of duplication. A minimum charge of \$10 is applied to any mail billing.

## 16. IF YOU HAVE QUESTIONS OR SUGGESTIONS

If you have questions regarding these procedures or any other aspects of the Regional Board's public records please contact the Records Management Officers, Sylvia Wellnitz or Mike Gallina as follows:

Sylvia Wellnitz Regional Board Records Management Officer California Regional Water Quality Control Board, San Diego Region 9174 Sky Park Court, Suite 100 San Diego, California 92123-4340

Phone (858) 637-5593 Fax (858) 571-6972

e-mail: records@rb9.swrcb.ca.gov

Mike Gallina Regional Board Records Management Officer California Regional Water Quality Control Board, San Diego Region 9174 Sky Park Court, Suite 100 10

San Diego, California 92123-4340

Phone (858) 636-3137 Fax (858) 571-6972

e-mail: records@rb9.swrcb.ca.gov

Please help us serve you and others better. If our service has not matched your expectations for customer service, we want to know, so that we can do something about it and get it right the next time. If you have a problem or suggestion, you may:

- Discuss the problem or suggestion with the staff member who assisted you; or
- Discuss the problem or suggestion with the Records Management Officers, Sylvia Wellnitz or Mike Gallina; *or*
- Speak or write to the supervisor in charge as follows:

Dianne Broussard Regional Board Administrative Officer California Regional Water Quality Control Board, San Diego Region 9174 Sky Park Court, Suite 100 San Diego, California 92123-4340

Phone (858) 636-3137 Fax (858) 571-6972

e-mail: broud@rb9.swrcb.ca.gov

or

- Send a message by email: <u>questions@rb9.swrcb.ca.gov</u>. Your message will be routed to Regional Board management for follow-up; *or*
- Complete the online CalEPA Customer Services Survey form or mail in the printer-friendly form found at <a href="http://www.calepa.ca.gov/ContactUs">http://www.calepa.ca.gov/ContactUs</a> to the address below:

Cal/EPA Communications Office P.O. Box 2815 1001 I Street Sacramento, CA 95814 (916) 445-3846

The survey form will be routed to Regional Board management for follow-up.